



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

COOLEY LLP  
ATTN: Patent Group  
Suite 1100  
777 - 6th Street, NW  
Washington DC 20001

**MAILED**  
**SEP 24 2010**  
**OFFICE OF PETITIONS**

In re Application of  
Paschini, et al.  
Application No. 10/821,405  
Filed: April 9, 2004  
Attorney Docket No. EWIR-001/02US 300933-  
2005

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 24, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

It is noted that the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) to the prior filed non-provisional application is embedded in the "Petition under 37 C.F.R. § 1.78(a)(3). Because the amendment is not contained on a paper separate from the petition, the amendment does not comply with 37 CFR §§ 1.4 and 1.121 that provide, in pertinent part,

**§ 1.4 Nature of correspondence and signature requirements**

(c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry, or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

**§ 1.121 Manner of making amendments in applications**

(a) *Amendments in applications, other than reissue applications.* Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.

Based on the aforementioned, the amendment containing the required references to the prior filed applications is not acceptable and, therefore, neither the amendment nor the references to the prior-filed applications contained therein can be entered. The petition under 37 CFR 1.78(a)(3) must be dismissed because petitioner has failed to include the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) to the prior filed non-provisional application.


Petitioner may file a renewed petition under 37 CFR 1.78(a)(3) along with an amendment, contained on a paper separate from the petition, requesting amendment of the priority claim to include the reference to the prior-filed non-provisional application.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Commissioner for Patents  
                                    United States Patent and Trademark Office  
                                    Box 1450  
                                    Alexandria, VA 22313-1450

By facsimile:              (571) 273-8300  
                                    Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

  
Chris Bottorff  
Supervisor  
Office of Petitions